

# State of Missouri Office of Secretary of State

Case No. AP-10-31

IN THE MATTER OF:

JAMIE B. CAMPANY, et al.,

Respondents.

## **CONSENT ORDER AS TO RESPONDENT BRIAN EKASALA**

### **SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS**

1. The Enforcement Section of the Missouri Securities Division ("Enforcement Section") has alleged that Brian Ekasala ("Ekasala") offered to enter into, entered into, or confirmed the execution of transactions for the delivery of silver bullion in margin accounts of Missouri residents, in violation of Section 409.803.1, RSMo. (2000).
2. Respondent Ekasala and the Enforcement Section desire to settle the allegations and matters raised by the Enforcement Section relating to the Respondent Ekasala's alleged conduct.

### **CONSENT TO JURISDICTION**

3. Respondent Ekasala and the Enforcement Section stipulate and agree that the Commissioner has jurisdiction over the Respondent Ekasala and these matters pursuant to Sections 409.800 to 409.863, RSMo. (2000).
4. Respondent Ekasala and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2009), which provides:

"The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act."

### **WAIVER AND EXCEPTION**

5. Respondent Ekasala waives his right to a hearing with respect to this matter.
6. Respondent Ekasala waives any right that he may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent Ekasala specifically forever releases and holds harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner of Securities, and their respective representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter.
7. Respondent Ekasala stipulates and agrees with the Enforcement Section that, should

the facts contained herein prove to be false or incomplete, the Enforcement Section reserves the right to pursue any and all legal or administrative remedies at its disposal.

### CONSENT TO COMMISSIONER'S ORDER

8. Respondent Ekasala and the Enforcement Section stipulate and agree to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.
9. Respondent Ekasala agrees not to take any action or to make or permit to be made any public statement creating the impression that this Order is without factual basis. Nothing in this paragraph affects Respondent Ekasala's (a) testimonial obligations; (b) right to take legal or factual position in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities is not a party; or (c) right to make public statements that are factual.
10. Respondent Ekasala agrees that Respondent Ekasala is not the prevailing party in this action since the parties have reached a good faith settlement.
11. Respondent Ekasala neither admits nor denies the allegations made by the Enforcement Section, but consents to the Commissioner's Findings of Fact, Conclusions of Law, and Order as set forth below solely for the purposes of resolving this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.

### COMMISSIONER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

#### I. FINDINGS OF FACT

12. Respondent Ekasala is a resident of Lake Worth, Florida. In or about May, 2008, but no later than October 2008, Respondent Ekasala was associated with Respondent Global Bullion Exchange, LLC ("Global Bullion") located in Palm Beach, Florida.
13. During the period of May, 2008 through no later than October of 2008, Respondent Ekasala solicited public customer's purchase of precious and industrial metals on behalf of Global Bullion and its affiliated entities.
14. In May, 2008, the Enforcement Section alleged Respondent Ekasla solicited a Missouri resident on behalf of the Respondent Global Bullion, on the market opportunities to invest in silver. The investment could be made on margin and the charges would be a onetime fee of fifteen percent (15%) of the purchase price. The resident agreed to receive and did receive investment materials from The Bullion Group.
15. On May 29, 2008, the subject Missouri resident sent a check made payable to Global Bullion in the amount of six thousand eight hundred sixty dollars (\$6,860) for the purchase of one thousand (1,000) ounces of silver. On June 6, 2008, after receiving another solicitation from Respondent Ekasala, the subject Missouri resident sent a check made payable to Global Bullion in the amount of seven thousand dollars (\$7,000) for another purchase of one thousand (1,000) ounces of silver.

16. The subject Missouri resident did not receive documentation and was not informed of any terms and conditions detailing any arrangement the Missouri resident may have had with Respondent Ekasala other than that evidenced by the customer account documentation submitted to Global Bullion on May 29, 2008. Among other things, Respondent Ekasala did not disclose to MR the following:
- a. the terms of the margin account;
  - b. the source of the financing to fund the margin account;
  - c. the terms of delivery of the silver purchased;
  - d. the terms of the storage for the silver purchased;
  - e. the risks of investing in commodities; or
  - f. the risks of investing on margin.
17. To date, the subject Missouri resident has lost over thirteen thousand eight hundred and sixty dollars (\$13,860) in Missouri resident's account.

## II. CONCLUSIONS OF LAW

18. The Commissioner finds Respondent Ekasala violated Section 409.803.1, RSMo. (2000), by offering to enter into, entering into, or confirming the execution of, any transaction for the delivery of any commodity under a commodity contract commonly known as a margin account, margin contract, leverage account, leverage contract, or under any contract, account, arrangement, scheme, or device that serves the same function or functions or is marketed or managed in substantially the same manner as such account or contract;
19. The Commissioner finds Respondent Ekasala violated Section 409.803.2, RSMo. (2000), by selling or purchasing, or offering to sell or purchase, any commodity under any commodity contract or under any commodity option or offer to enter into or enter into as seller or purchaser any other commodity contract or any commodity option;
20. The Commissioner finds Respondent Ekasala violated Section 409.810, RSMo. (2000), by directly or indirectly cheating or defrauding, or employing any device, scheme or artifice to cheat or defraud, any person, by making an untrue statement of material fact, or engaging in any transaction, act, practice or course of business which would operate as a fraud or deceit of any other person.
21. The Commissioner, after consideration of the stipulations set forth above and on the consent of Respondent Ekasala and the Enforcement Section, finds and concludes that the Commissioner has jurisdiction over Respondent Ekasala and this matter and that the following Order is in the public interest, necessary for the protection of public investors and consistent with the purposes intended by Chapter 409, RSMo. (Cum. Supp. 2009).

## III. ORDER

**NOW, THEREFORE,** it is hereby Ordered that:

1. Respondent Ekasala, shall not engage in any act or practice constituting a violation of any provision of sections 409.800 to 409.863, RSMo. (2000), or any rule or order promulgated or issued under sections 409.800 to 409.863, RSMo. (2000);
2. Respondent Ekasala shall pay to the **Missouri Secretary of State's Investor Education and Protection Fund** the sum of FIVE THOUSAND dollars (\$5,000). Respondent Ekasala shall pay seven hundred fifty dollars (\$750) within ten (10) days following the execution of this consent; and Respondent Ekasala shall then make five (5) equal monthly installments of seven hundred fifty dollars (\$750) each and one final payment on the sixth (6th) month, August, 2012, of five hundred dollars (\$500). The first installment will be due on April 1, 2012, and all other installments will be due on the first day of each month for five consecutive months, with the last installment due on the first day of the sixth and final month, August 1, 2012. Should Respondent Ekasala fail to make any payment, as described above, the entire principal sum then remaining will be immediately due and payable without notice or demand;
3. These payments shall be sent to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the **Missouri Secretary of State's Investor Education and Protection Fund**. The Division will send the money to the Missouri Secretary of State's Investor Education and Protection Fund; and
4. Respondent Ekasala shall pay his own costs and attorneys' fees with respect to this matter.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS 5<sup>TH</sup> DAY OF MARCH, 2012.

ROBIN CARNAHAN  
SECRETARY OF STATE

(Signed/Sealed)  
MATTHEW D. KITZI  
COMMISSIONER OF SECURITIES

Consented to by:  
MISSOURI SECURITIES DIVISION

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Kristine Sonnett Kauflin, MO Bar No. 57377  
Chief Enforcement Counsel

RESPONDENT BRIAN EKASALA

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Brian Ekasala

Approved as to Form:

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Lance Y. Kinzer  
Attorney for Respondent Ekasala